

## **2005 DRAFTING REQUEST**

### **Senate Amendment (SA-SSA2-SB78)**

Received: **05/10/2005**

Received By: **mdsida**

Wanted: **As time permits**

Identical to LRB:

For: **Alan Lasee (608) 266-3512**

By/Representing: **Tom**

This file may be shown to any legislator: **NO**

Drafter: **mdsida**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - drugs**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lasee@legis.state.wi.us**

Carbon copy (CC:) to:

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#### **Pre Topic:**

No specific pre topic given

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#### **Topic:**

Sale of pseudoephedrine by retailers

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#### **Instructions:**

See Attached

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#### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			rschluet 05/10/2005	_____	lnorthro 05/10/2005	lnorthro 05/10/2005	

FE Sent For:

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State of Wisconsin  
2005 - 2006 LEGISLATURE

0596/1  
LRBa0593?  
MGD: /.....  
js

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE AMENDMENT,  
TO SENATE SUBSTITUTE AMENDMENT 2,  
TO 2005 SENATE BILL 78

~~ADD~~  
NOW

1/1A and  
INS 1/1B

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 10, line 3: after "establishment." insert "This subsection does not apply  
3 to a pseudoephedrine product unless it contains another Schedule V substance."

4 2. Page 10, line 7: after "preparation." insert "This subsection does not apply  
5 to a pseudoephedrine product unless it contains another Schedule V substance." ✓

6 3. Page 10, line 13: delete lines 13 to 15 and substitute "and quantity of the  
7 product sold. The purchaser and the seller shall sign the record of".

8 4. Page 11, line 13: after that line insert:

9 "SECTION 30m. 961.23 (9) of the statutes is created to read:

10 961.23 (9) INS - 1/10 11/10 11/10 ←

11 5. Page 11, line 18: delete "pharmacy" and substitute "seller".



**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2005 ASSEMBLY BILL 183**

INS 1/1A

1 At the locations indicated, amend the substitute amendment as follows:

2 ~~1.~~ Page 2, line 1: delete that line and substitute "methamphetamine".

3 **2.** Page 6, line 21: after that line insert:

4 "SECTION 7m. 134.61 of the statutes is created to read:

5 **134.61 Sale of pseudoephedrine products to minors. (1) DEFINITIONS.**

6 In this section:

7 (a) "Liquid-filled pseudoephedrine gelcap" means a soft, liquid-filled gelatin  
8 capsule that is intended to be sold at retail and that contains pseudoephedrine or any  
9 of its salts, isomers, or salts of isomers.

10 (b) "Pseudoephedrine liquid" means a product that is intended to be sold at  
11 retail, that is a liquid at room temperature, and that contains pseudoephedrine or  
12 any of its salts, isomers, or salts of isomers.

1 (b) If a person who violates sub. (2) committed the violation within the 12  
2 months preceding the present offense, the person shall forfeit not less than \$200 nor  
3 more than \$500.

4 ~~#3.~~ Page 6, line 22: delete lines 22 and 23 and substitute:

5 "SECTION 8m. 450.07 (4) (b) of the statutes is amended to read:".

6 ~~#4.~~ Page 6, line 24: delete "(intro.)".

7 ~~#5.~~ Page 7, line 1: delete lines 1 to 9 and substitute "paragraph may not  
8 prescribe a standard regarding circumstances under which a pseudoephedrine  
9 product, as defined in s. 134.61 (1) (c), <sup>961.01 (20c)</sup> may be sold at retail or offered for sale at retail  
10 unless the standard is also prescribed under federal law.".

11 ~~6.~~ Page 8, line 17: delete the material beginning with that line and ending with  
12 page 12, line 2, and substitute:

13 "SECTION 19m. 961.01 (20c) of the statutes is created to read:

14 961.01 (20c) "Pseudoephedrine product" has the meaning given in s. 134.61 (1)

15 (c).

16 SECTION 21g. 961.11 (6) (a) of the statutes is renumbered 961.11 (6) (a) (intro.)  
17 and amended to read:

18 961.11 (6) (a) The controlled substances board shall may not have authority to  
19 control a nonnarcotic substance, other than through the promulgation of rules by the  
20 board under s. 134.61 (1) (c), if the all of the following apply:

21 1. The substance may, under the federal food, drug and cosmetic act and the  
22 laws of this state, be lawfully sold over the counter without a prescription.

23 SECTION 21r. 961.11 (6) (a) 2. of the statutes is created to read:

INS  
11/10

1 ~~(2) PROHIBITIONS. (a) No person who sells a pseudoephedrine product at retail~~  
2 ~~may display it or offer it for sale unless it is displayed or offered for sale behind a~~  
3 ~~check-out counter where the public is not permitted or within 10 feet of a check-out~~  
4 ~~counter that is attended by a person with an unobstructed view of the package~~  
5 ~~containing the product.~~

6 ~~(b) No person may sell a pseudoephedrine product or offer a pseudoephedrine~~  
7 ~~product for sale to a person under the age of 18.~~

8 (3) DEFENSE; SALE TO MINOR. Proof of all of the following facts by a person who  
9 sells a pseudoephedrine product or offers a pseudoephedrine product for sale to a  
10 person under the age of 18 is a defense to any prosecution for a violation of sub. (2)

11 (b):

12 (a) That the purchaser or the person to whom the product was offered falsely  
13 represented that he or she had attained the age of 18 and presented an identification  
14 card.

15 (b) That the appearance of the purchaser or the person to whom the product  
16 was offered was such that an ordinary and prudent person would have believed that  
17 he or she had attained the age of 18.

18 (c) That the sale or offer was made in good faith, in reasonable reliance on the  
19 identification card and appearance of the purchaser or the person to whom the  
20 product was offered, and with the belief that he or she had attained the age of 18.

21 (4) PENALTIES. (a) Except as provided in par. (b), a person who violates sub. (2)  
22 is subject to a forfeiture of not more than \$500.

23 (b) If a person who violates sub. (2) committed the violation within the 12  
24 months preceding the present offense, the person shall forfeit not less than \$200 nor  
25 more than \$500."